

Appl. No. 10/650,379
Amtd. dated November 2, 2005
Reply to Office Action of August 18, 2005
Attorney Docket 15315

REMARKS/ARGUMENTS

Claims 4-22 are currently pending for examination. Claims 1-3 are cancelled as of this amendment. Claims 4, 8, 9, 10 and 16 are presently amended.

Applicant gratefully acknowledges Examiner's indication that Claims 4-7 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 4 has been rewritten in independent form including the limitations of the previously rejected basic claim and as such Claim 4 should be allowed. Claims 5-7 depend from Claim 4 and should also be allowed.

Rejection of Claims 16-18 under 35 U.S.C. 1112

Claims 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 has been amended into independent form to correct any insufficient antecedent basis problems with the prior submitted claim. Additionally, Claim 16 has been amended to include the limitation of previous Claim 4. It is respectfully submitted that Claim 16 as presently presented has sufficient antecedent basis for all limitations presented and as such the rejection should be withdrawn. Claims 17-18 depend from independent Claim 16 and as such the rejection of Claims 17-18 should be withdrawn for the reason previously given as no additional reasons for rejection were given by the examiner.

Rejection of Claims 1-3, 8-11, 16, 17, 21, and 22 under 35 U.S.C. 103(a)

Claims 1-3, 8-11, 16, 17, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (4,962,821) in view of Tesker (5,290,201).

Claims 1-3 have been cancelled so no discussion of their rejection is addressed. Claim 8 has been amended to depend from Claim 4 and as such should be allowed for at least the same reasons of allowability of Claim 4 as presented above.

Rejection of Claims 9-11

With respect to Claims 9-11, it is respectfully submitted that the Office Action does not meet the criteria for establishing an obviousness rejection, as at minimum neither Kim or

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Tesker teach or suggest "a first hydraulic motor fixed to the first beam to pivot therewith" as presently claimed in independent Claim 9.

Examiner states that "Kim fails to show side suspension beams pivotally coupled to the chassis at the central portion." Examiner then indicates that Tesker teaches "a vehicle comprising side suspension beams ("oscillating wheel mounting housings" 60, 62; see figure 2) being pivotally coupled to the chassis at a central portion (see figure 2). The beams have front and rear wheels (24a, 24b, 26a, 26b) coupled thereto being driven by hydraulic motors (52, 54). Each hydraulic motor is mounted to each beam (similar to that of applicant's, such that the motors are mounted to the beam through the chassis)."

Kim does in fact teach hydraulic motors mounted on respective lateral portions of the undercarriage (column 5, lines 52-55). Kim then more specifically states "each of the first and second hydraulic motors 52, 54 is securely coupled to a respective lateral portion of the undercarriage 14 by conventional means such as a bolt/mounting bracket combination." Such a mounting of the motors to the undercarriage would not allow for the motors to pivot with the suspension beams as is presently claimed in Claim 9. Having the motors fixed to beam to pivot therewith allows the pivoting suspension set-up to function without being impeded by the torque produced from the hydrostatic suspension.

As the cited references of Kim and Tesker at least fail to teach or disclose "a first hydraulic motor fixed to the first beam to pivot therewith" independent Claim 9 should be allowed of the prior art. Claims 10 and 11 depend from Claim 9 and should also be allowed for at least the same reason as Claim 9. Withdrawal of the rejection is respectfully requested.

Rejection of Claims 16 and 17

Independent Claim 16 presently claims both "a first hydraulic motor fixed to the first beam to pivot therewith" as well as "a second hydraulic motor fixed to the second beam to pivot therewith." As previously stated, since the cited references fail to teach or disclose such a limitation the obviousness rejection of Claim 16 should be withdrawn. Claim 17 depends from Claim 16 and should be allowed for at least the same reason as for Claim 16.

Withdrawal of the rejection is respectfully requested.

Rejection of Claims 21 and 22

Claims 21 and 22 depend from Claim 9 and as such should be allowed for at least the same reason of allowability as Claim 9. Withdrawal of the rejection is respectfully requested.

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Rejection of Claims 13-15 and 18-20 35 U.S.C. 103(a)

Claims 13-15 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (4,962,821) in view of Tesker (5,290,201) as applied above, and further in view of Nelson (3,786,888).

Rejection of Claims 13-15

Claims 13-15 depend from independent Claim 9. The additional reference of Nelson also fails to disclose at least "a first hydraulic motor fixed to the first beam to pivot therewith" as claimed in Claim 9 as previously discussed above. As Claim 9 is allowable over the cited art, Claims 13-15 which depend from Claim 9 should also be allowed for at least the same reason. Withdrawal of the rejection is respectfully requested.

Rejection of Claims 18

Claim 18 depends from independent Claim 16. The additional reference of Nelson also fails to disclose at least "a first hydraulic motor fixed to the first beam to pivot therewith" or "a second hydraulic motor fixed to the second beam to pivot therewith" as presently claimed in independent Claim 16. As Claim 16 is allowable over the cited art, Claim 18 which depends from Claim 16 should also be allowed for at least the same reason. Withdrawal of the rejection is respectfully requested.

Rejection of Claims 19 and 20

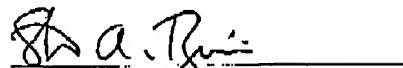
Claims 19 and 20 depend from independent Claim 9. The additional reference of Nelson also fails to disclose at least "a first hydraulic motor fixed to the first beam to pivot therewith" as claimed in Claim 9 as previously discussed above. As Claim 9 is allowable over the cited art, Claims 19 and 20 which depend from Claim 9 should also be allowed for at least the same reason. Withdrawal of the rejection is respectfully requested

No fee is believed due in connection with this Amendment. However, if the Commissioner determines that a fee is due, he is authorized to charge the fee to Deposit Account No. 14-0780.

In view of the above remarks, it is believed that the application is in condition for allowance. Accordingly, an early Notice of Allowance is respectfully requested.

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